



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 13 2013

REPLY TO THE ATTENTION OF:
E-19J

Richard Marquis, Division Administrator
Federal Highway Administration - Indiana Division
575 North Pennsylvania St., Room 254
Indianapolis, Indiana 46204

Karl Browning, Commissioner
Indiana Department of Transportation
100 North Senate Ave., Room N642
Indianapolis, Indiana 46204

RE: Interstate-69 Evansville to Indianapolis, Indiana Project, Section 5, Bloomington to Martinsville, Indiana, Tier 2 Final Environmental Impact Statement / Record of Decision. CEQ No. 20130242

Dear Mr. Marquis and Mr. Browning:

The U.S. Environmental Protection Agency Region 5 (EPA) reviewed the Federal Highway Administration (FHWA)/Indiana Department of Transportation (INDOT) Tier 2 Final Environmental Impact Statement (FEIS) / Record of Decision (ROD) for Section 5 of the I-69 Indianapolis to Evansville, Indiana project. Our review and comments are provided pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA), and Section 309 of the Clean Air Act.

The Section 5 Tier 2 FEIS is the fifth of six expected Tier 2 FEISs that EPA has reviewed and the first Tier 2 combined FEIS/ROD FHWA issued for the 142-mile-long I-69 Indianapolis to Evansville Project. I-69 is proposed as a freeway facility that utilizes interchanges for access control. Section 5 extends approximately 22 miles from State Road (SR) 37 south of Bloomington in Monroe County to SR 39 in Morgan County. The Section 5 project is an upgrade of existing SR 37 to interstate standards substantially utilizing existing multi-lane SR 37 right-of-way. The Section 5 FEIS/ROD preferred alternative is Refined Preferred Alternative 8, which is a refined/modified version of the Section 5 DEIS Preferred Alternative 8.

EPA provided comments on the Tier 2 DEIS and rated the DEIS Preferred Alternative as "EC-2, Environmental Concerns-Insufficient Information" in our letter dated January 2, 2013. EPA provided additional comments in our letter dated March 19, 2013. EPA concerns related primarily to the project's potential for adverse impacts to surface water/groundwater quality and quantity associated with stormwater management, especially in karst areas and adjacent to

hazardous waste/Superfund sites, and with impacts to and mitigation for wetlands and streams. We recommended INDOT explore additional modifications to the DEIS Preferred Alternative 8 to reduce impacts and identify additional mitigation measures.

We find the FEIS/ROD informative and responsive to most of our DEIS concerns and recommendations regarding the proposal. For example, FEIS/ROD Refined Preferred Alternative 8: 1) uses the existing Walnut Street partial interchange (Option B), 2) does not include an eastern access road from Walnut Street to the Hoosier Energy facility, and 3) relocates the Liberty Church Road Interchange slightly north of the location identified in the DEIS. These refinements/modifications reduce impacts to wetlands, streams and floodplains and forests. The FEIS/ROD adequately addresses air conformity. EPA concurs with FHWA's air conformity finding for Section 5. Mitigation measures and mitigation commitments are identified in Section 5 FEIS, *Chapter 7, Mitigation and Commitments* and are summarized and identified as "required" or "for consideration" in the Section 5 ROD (Appendix B) on the *Mitigation Commitments Summary Form*.

Construction – Stormwater and Sediment and Erosion Control: EPA retains its concern regarding potential for adverse impacts to surface water / groundwater resources during Section 5 construction. The FEIS/ROD identifies that all best management practices (BMPs) and protection measures identified for Section 4 to protect water resources during construction will be used for Section 5. This includes, but is not limited to, INDOT requiring mandatory contractor training on proper sediment and erosion control measures, especially for karst areas. In addition, the Section 5 FEIS/ROD identifies that INDOT will complete contractor compliance inspections on a regular basis to help control erosion and sediment on the project. As you are aware, FHWA, INDOT, Indiana Department of Environmental Management (IDEM) and EPA have received and continue to receive numerous citizen complaints regarding sediment and erosion control concerns associated with I-69 Section 4 construction. Many of these complaints appear to come after frequent and/or unusually heavy precipitation events. We recommend INDOT identify and undertake feasible additional measures to insure adequate erosion and sediment controls that protect on-site and hydrologically connected off-site surface and groundwater resources during frequent and/or heavy precipitation events are in place during construction of Section 5. For example, INDOT might require frequent inspections of sediment and erosion controls by INDOT inspectors, especially during and immediately following precipitation events.

Hazardous Waste - Superfund Sites (Lemon Lane Landfill and Bennett's Dump): The FEIS/ROD identifies that INDOT commits to control I-69 roadway drainage near these Superfund sites not to exceed existing SR 37 roadway drainage. Coordination will be ongoing during final design process with EPA and IDEM regarding drainage flows at these sites. In addition, INDOT will provide EPA and IDEM with design plans for review and comment. INDOT proposes a 2-week review/comment turnaround time. EPA will require a 30-day review/comment turnaround time. The EPA Superfund contact for these two Superfund sites is Thomas Alcamo, Remedial Project Manager. Tom may be reached by calling 312/886-7278 or by email at Alcamo.Thomas@epa.gov.

Wetlands and Streams: The FEIS/ROD identifies that INDOT will coordinate with the regulatory agencies, including EPA, on the development of the Section 5 mitigation sites. Many details regarding mitigation and monitoring plans and other items of interest are in development and will be submitted as part of the Clean Water Act Section 404 permit application. EPA reserves the right to review and comment on the Section 404 application for Section 5. The EPA Watersheds and Wetlands Branch contact is Melissa Blankenship. Melissa may be reached by calling 312/886-6833 or by email at blankenship.melissa@epa.gov.

EPA Class V Permits: The FEIS/ROD correctly identifies that EPA is the agency that must be notified and would need to approve any Class V well construction under the Safe Drinking Water Act's Underground Injection Control (UIC) program. For additional information regarding EPA Class V permits and UIC program, contact Ross Micham of EPA's UIC Branch at 312/886-4237 or at micham.ross@epa.gov

Greenhouse Gases/Climate Change (EPA 3/19/2013 request follow-up response): We appreciate the FEIS/ROD identifies that INDOT will coordinate further with FHWA during final design to determine if policies in the climate change adaptation plans that the U.S. Department of Transportation (USDOT) and others are in the process of finalizing at this time can be factored into final design for Section 5.

Construction – Air Quality Mitigation Measures: We continue to encourage INDOT develop strategies to reduce diesel emissions during Section 5 construction to protect construction workers and vulnerable populations near construction areas. For example, we recommend developing project construction contracts that require the use of equipment with clean diesel engines and the use of clean diesel fuels, and/or set limits on the length of time equipment is allowed to idle when not in active use (EPA recommends idling not exceed 5 minutes.)

Summary of Overall I-69 (Indianapolis to Evansville) Project Impacts: FEIS, Appendix 1, Table MM provides a running tally of direct impacts to, in part, farmland, forest, wetland and floodplain associated with I-69 Sections 1-5. Table 9 in Appendix MM provides the running tally, to date, of karst impacts associated with Sections 4 and 5. However, the FEIS/ROD does not include a running tally of direct stream impacts for Sections 1-5 as we requested. In addition, the FEIS does not include a running tally of indirect and cumulative impacts, to date, of these resources, as we requested. EPA requests that the I-69 Tier 2 Section 6 FEIS include the running tally of direct, indirect and cumulative impacts to resources of concern, including streams. Where definitive numbers are not readily available, we suggest a range (worse case/best case scenario) be identified.

I-69 Mitigation Tracking and Annual Mitigation Tracking Report: EPA received the 2012 Annual Report for the I-69 Evansville to Indianapolis Project Commitment and Mitigation Tracking (dated January 30, 2013). Thank you. EPA requests two hard copies and 2 DVDs of the fourth I-69 mitigation tracking annual report as soon as it is available.

If you have any questions about EPA's comments, please contact Virginia Laszewski of my staff at 312-886-7501 or email her at laszewski.virginia@epa.gov.

Sincerely,



Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

cc: U.S. Army Corps of Engineers – Louisville District, Attention: CELRL-OP-F,
P.O. Box 59, Louisville, KY 40401-0059 (Greg McKay)
U.S. Army Corps of Engineers – Indianapolis Regulatory Office, 8902 Otis Avenue,
Suite S106B, Indianapolis, Indiana 46216 (Deborah Snyder)
U.S. Fish and Wildlife Service, Region 3, Bloomington Ecological Services
Office, 620 S. Walker Street, Bloomington, IN 47403-2121 (Scott
Pruitt/Robin McWilliams-Munson)
Indiana Department of Environmental Management, Office of Water Quality,
Section 401 Water Quality Certification Program, 100 N. Senate Avenue,
MC 65-40, Indianapolis, IN 46204-2251 (Randy Braun/Jason Randolph)
Indiana Department of Natural Resources, 402 W. Washington St., Rm W264,
Indianapolis, IN 46204 (Matt Buffington)